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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/623,339

07/18/2003

Alexander B. Beaman

APL1P283/P3109US1

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08/03/2009

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EXAMINER

THERIAULT, STEVEN B

ART UNIT

PAPER NUMBER

2179

MAIL DATE

DELIVERY MODE

08/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--|---|--|
| Office Action Summary | Application No. 10/623,339 | Applicant(s) BEAMAN, ALEXANDER B. | |
| | Examiner STEVEN B. THERIAULT | Art Unit 2179 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-22, 26, 27, 29, 30, 32, 33 and 36-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-22, 26-27, 29-30, 32-33, 36-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This action is responsive to the following communications: Amendment filed 4/28/2009.

This action is made Final.

2. Claims 20-22, 26-27, 29-30, 32-33, and 36-48 are pending in the case. Claims 20, 36 and 43 are the independent claims. Claims 36-48 are new. Claims 1-19, 23-25, 28, 31 and 34-35 have been cancelled

Claim Rejections - 35 USC § 103

3. **The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. **Claims 20, 22, 33, 36-39, 42-48 are rejected under 35 U.S.C 103(a) as being anticipated by Csicsatka et al. (hereinafter Csicsatka) U.S. Patent Publication No. 20030158737 filed June 18, 2002, in view of Forest et al. (hereinafter Forest) U. S. Patent No. 5999895 filed July 24, 1995.**

In regard to **Independent claim 20, 36** Csicsatka teaches a client device and method comprising:

- A display device (See figure 1, #20)
- A processor (See microcontroller, #22)
- A memory connected with the processor wherein the processor is able to perform instructions including (See Para 46 and Figure 1, #23).
- Displaying a navigable menu on the display device, wherein the menu includes menu icons each audibly represented by a voiced name, the menu icons being capable of being highlighted in any order (See Para 22, 54-55).
- Highlighting a selected menu icon based on a user event (See Para 55).
- Outputting an audible output during the navigation of the menu (See Para 64 and Figure 5 and Para 70).

Csicsatka does not expressly teach:

- outputting an audible only after the selected menu icon has been highlighted for a period of time greater than a predetermined amount of time

However, Forest expressly teaches a process of providing a menu selection feature where the cursor can dwell on a menu option and after a period of time has expired the menu selection will occur (See column 9, lines 10-46, column 43 lines 20-67, column 44, lines 1-67 and column 26, lines 1-55). Forest expressly teaches a menu selection mechanism to help disabled individuals select menu options and by providing a dwell feature the interface selections made by the user that has a muscle spasm or a difficulty in keeping their hands steady can make selections by moving the mouse to the input and then leaving it there. Once time expires then the menu is selected. Forest and Csicsatka both teach menu option that are provided to the user and they both provide input mechanisms that help the user to make selections on the device.

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Accordingly, it would have been obvious to the skilled artisan at the time of the invention having the teachings of Csicsatka and Forest in front of them to modify the Csicsatka system to allow dwell time inputs to the media device to assist in selection functions. The motivation to combine Csicsatka with Forest comes from the suggestion in Forest to allow individuals with muscular disorders or a wide variety of medical issues to select menu options (See column 3, lines 45-67) for the purposes of controlling the device, access applications that were previously inaccessible, enhancing self esteem and expanding personal interaction (See column 3).

With respect to **dependent claim 22**, Csicsatka teaches the client device wherein the media management system is executed on a portable digital music player (figure 2 shows a portable player).

With respect to **dependent claim 37**, Csicsatka teaches the method wherein the audible sound is a vocalization used to navigate the navigable menu by playing the audio file corresponding to the voiced name of the associated menu icon (See Para 70).

With respect to **dependent claim 38**, Csicsatka teaches the method wherein the voiced name for the menu icon is updated by modifying the corresponding audio file (see Para 52-53).

With respect to **dependent claim 33, 39** Csicsatka teaches the device wherein the client device is in communication with a host device comprising:

a processor; and memory, operably connected with the processor; wherein the processor is operable to perform instructions (See figure 1, 20, 22, 23) including providing the text string that represents the voice name (See Para 43 and 70), generating the audio file from the text string and delivering the audio file to the device (See Para 52-53).

With respect to **dependent claim 42**, Csicsatka teaches the method further comprising providing a remote control to navigate through the menu (See Para 55, a voice operated touch pad is a

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form of remote control).

In regard to **Independent claim 43**, Csicsatka teaches the method for creating audible menu components at a host device, wherein the audible menu components represent navigational components directed to the selection of media content on a client device wherein the audible navigational components provide for the selection of the media content without a user seeing a display on which the navigational components are displayed (see Para 52-53 and 70), comprising:

providing a text string that represents a vocalization used to audibly describe a highlighted menu component, the menu component being capable of being highlighted in any order on the client device (See Para 22, 54-55)

generating an audio file from the text string, wherein the audio file includes an indication of a period of time and delivering the audio file to the client device (See Para 52-53 and 40 and 70),

Csicsatka does not expressly teach:

- Wherein the vocalization is provided only after the menu component has been highlighted for an amount of time more than the period of time indicated in the audio file, otherwise there is no audible sound.

However, Forest expressly teaches a process of providing a menu selection feature where the cursor can dwell on a menu option and after a period of time has expired the menu selection will occur (See column 9, lines 10-46, column 43 lines 20-67, column 44, lines 1-67 and column 26, lines 1-55). Forest expressly teaches a menu selection mechanism to help disabled individuals select menu options and by providing a dwell feature the interface selections made by the user that has a muscle spasm or a difficulty in keeping their hands steady can make selections by moving the mouse to the input and then leaving it there. Once time expires then the menu is selected. Forest and Csicsatka both teach menu option that are provided to the user and they both provide input mechanisms that help the user to make selections on the device.

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Accordingly, it would have been obvious to the skilled artisan at the time of the invention having the teachings of Csicsatka and Forest in front of them to modify the Csicsatka system to allow dwell time inputs to the media device to assist in selection functions. The motivation to combine Csicsatka with Forest comes from the suggestion in Forest to allow individuals with muscular disorders or a wide variety of medical issues to select menu options (See column 3, lines 45-67) for the purposes of controlling the device, access applications that were previously inaccessible, enhancing self esteem and expanding personal interaction (See column 3).

With respect to **dependent claim 44**, Csicsatka teaches the method further comprising: playing the audio file; and requesting approval of the played audio file prior to delivering the audio file to a client device (See Para 52 and 54).

With respect to **dependent claim 45**, as indicated in the above discussion Csicsatka teaches every element of claim 44.

Csicsatka does not expressly teach the method wherein the period of time is user selectable. However, this limitation would have been obvious to the skilled artisan at the time of the invention, in view of Forest, because Forest suggest setting the dwell time to a period the user sets through the user's best input device type (See column 24, lines 1-40). Accordingly, it would have been obvious to the skilled artisan at the time of the invention having the teachings of Csicsatka and Forest in front of them to modify the Csicsatka system to allow dwell time inputs to the media device to assist in selection functions. The motivation to combine Csicsatka with Forest comes from the suggestion in Forest to allow individuals with muscular disorders or a wide variety of medical issues to select menu options (See column 3, lines 45-67) for the purposes of controlling the device, access applications that were previously inaccessible, enhancing self esteem and expanding personal interaction (See column 3).

With respect to **dependent claim 46**, Csicsatka teaches the method wherein: if approval is not given, providing an opportunity to modify the text string; and if the text string is

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modified, replacing the audio file with a new audio file generated from the modified text string, playing the audio file, and requesting approval of the played audio file (See Para 50- 54).

With respect to **dependent claim 47**, Csicsatka teaches the method wherein if the text string is not modified, providing an opportunity to replace the audio file with a new audio file generated from an audio recording (See Para 52-54).

With respect to **dependent claim 48**, Csicsatka teaches the method wherein the indication of the period of time is embedded in the audio files in metadata (See Para 68-69).

Claims 21, 26-27, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Csicsatka in view of Forest as applied to claim 20 above, and further in view of Miller et al (hereinafter Miller) U.S Publication No. 20020046315 filed Oct 10, 2001.

With respect to **dependent claim 21**, Csicsatka teaches the device comprising

- A media database that stores media files (See Para 51)
- Media collection records that include data relating to groupings of the media files (Para 51-52, MP3 files and play list data).
- A voiced names database that stores audio files (See Para 53 and 70).

Csicsatka in view of Forest do not teach

- Association records that associate the audio files with data from the media collection records and metadata from the media records
- Media records that include metadata relating to the media files

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However Miller teaches associating media records with metadata in a database (See Para 24 and 37-39) Miller teaches the system allows the user to also control the association with the records (See Para 50-52).

Accordingly, it would have been obvious to the skilled artisan at the time of the invention having the teachings of Csicsatka and Forest and Miller in front of them to modify the Csicsatka system to allow the audio files to be stored and associated with metadata. The motivation to combine Csicsatka, Forest and Miller comes from the suggestion in Miller to allow the user of metatags to describe the musical tracks (See Para 38-39).

In regard to **dependent claims 26 -27**, as indicated in the above discussion Csicsatka in view of Forest teach each element of claim 20.

Csicsatka in view of Forest does not teach the memory storing media content and metadata for a plurality of media items, the memory also storing audio content representing associated with the metadata for the media items and wherein the processor is operable to perform instructions including receiving a selection of one of the media items and then playing the audio content for at least a portion of the metadata representing associated with the selected one of the media items and elected one of the media items concurrently with the playing the audio content for at least the portion of the metadata associated with the selected one of the media items. However, this limitation would have been obvious to the skilled artisan at the time of the invention, in view of Miller, because Miller suggests using metatags to alter and display play lists on a portable device (See Para 38-41 and Figure 7). Accordingly, it would have been obvious to the skilled artisan at the time of the invention having the teachings of Csicsatka and Forest and Miller in front of them to modify the Csicsatka system to allow storing media with metadata that represents the items. The motivation to combine Csicsatka, Forest and Miller comes from the suggestion in Miller to allow the user of metatags to describe the musical tracks (See Para 38-39).

With respect to **dependent claim 29**, Csicsatka teaches the client device wherein the processor is further operable receiving instructions from a remote control to navigate through the menu (See Para 55, a voice operated touch pad is a form of remote control).

8. **Claims 30-32, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Csicsatka in view of Forest in further view of Miller as applied to claim 26 above, in further view of Swanson et al (hereinafter Swanson) U.S. Publication 20020013784 published Jan. 2002.**

With respect to **dependent claims 30-32, 40 and 41** as indicated in the above discussion, Csicsatka in view of Forest in further view of Miller teaches each element of claims 26.

Csicsatka does teach a headset (See figure 1, 17) and an audio prompt mechanism that provides a mechanism for audio to be heard via a channel (See Para 70).

Csicsatka in view of Forest do not expressly teach *the method wherein the client produces audio output in at least two channels; and the audio file is output through only one channel and wherein exactly two channels are used for the client's audio output, the two channels being a left channel and a right channel and wherein the audio file is mixed with the music when the music is playing.*

However, Swanson teaches a system that allows for a audio player complete with voice menu prompts to play audio files where there are multiple channels of the device and audio is sent over one channel and the user can interact with the device on another (Such as speaking to the device while the music is playing) (See Para 0063-0069). Swanson also teaches mixing the audio file while the music is playing (See Para 0090).

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Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Swanson and Csicsatka and Forest in front of them, to modify the system of Csicsatka to include the multiple channels to play audio and a mechanism to mix the audio file menus while the user is listening to the music. The motivation to combine Swanson with Csicsatka and Forest comes from the suggestion in Swanson to store and playback audio files on a device where the playback allows for the music to be played and continue to be played even though a user receives an email (See Para 0031). Further, Swanson teaches that the circuitry associated with playing the audio files is used with synthesized voice commands that control the operations of the headset and therefore providing the messages when the music is still playing giving them the option to answer it or not (See Para 0039).

Response to Arguments

Applicant's arguments to claims 20-22, 26-27, 29-30, 32-33, 36-48 are moot in light of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6983251 to Umemoto et al, issued Jan 3, 2006 and filed Feb. 15, 2000, that expressly teaches an audio interface with a menu that has voice activated options. The menus are loaded onto the device, and the purpose of the invention is to aid in selecting items and reading the sound information to the user. The sound information in the menu directly pertains to audio files for playing music.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven B Theriault/
Primary Examiner
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